IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 27042 of 2007(T)

PETITIONER:

P.P.DINESAN, S/O.GOVINDAN, AGED 47,
GOVINDA BHAVAN, P.O.CHOVVA, KANNUR.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

1. **STATE OF KERALA,**
   REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE COMMISSIONER AND SECRETARY TO**
   GOVERNMENT, TRANSPORT DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

3. **THE REGIONAL TRANSPORT AUTHORITY,**
   VATAKARA, REPRESENTED BY ITS SECRETARY.

4. **THE SECRETARY,**
   REGIONAL TRANSPORT AUTHORITY,
   VATAKARA.

5. **THE DISTRICT TRANSPORT OFFICER,**
   K.S.R.T.C. VATAKARA.

6. **THE REGIONAL TRANSPORT AUTHORITY,**
   KANNUR.

7. **THE SECRETARY,**
   REGIONAL TRANSPORT AUTHORITY, KANNUR.

8. **THE DISTRICT TRANSPORT OFFICER,**
   K.S.R.T.C., KANNUR.

BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C for R5 & R8
BY GOVERNMENT PLEADER SRI. P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.27042/2007 T

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORIGINAL PERMIT ISSUED IN THE YEAR 1996 FOR THE PERIOD FROM 14/07/1996 TO 14/07/2001.

EXT.P2: COPY OF THE ENDORSEMENT OF THE RENEWAL OF THE PERMIT EXTENDING UPTO 14/07/2006.

EXT.P3: COPY OF THE DECISION DTD. 15/06/2006 ISSUED BY THE R.T.A., ERNAKULAM.

EXT.P4: COPY OF THE ORDER IN M.V.A.R.P.NO.214/2007 ISSUED BY THE S.T.A.T., ERNAKULAM.

EXT.P5: COPY OF THE ORDER IN M.V.A.R.P.NO.400/2006 ISSUED BY THE S.T.A.T., ERNAKULAM.

EXT.P6: COPY OF THAT NOTIFICATION DTD. 9/05/2006 ISSUED BY THE GOVT. OF KERALA.

EXT.P7: COPY OF THAT NOTIFICATION DTD. 9/05/2007 ISSUED BY THE GOVT. OF KERALA.

EXT.P8: COPY OF THE TEMPORARY PERMIT FOR THE PERIOD FROM 16/12/2006 TO 4/01/2007 ISSUED IN FAVOUR OF THE PETITIONER.

EXT.P9: COPY OF THE TEMPORARY PERMIT FOR THE PERIOD FROM 25/05/2007 TO 13/06/2007 ISSUED IN FAVOUR OF THE PETITIONER.

EXT.P10: COPY OF THE LETTER DTD. 25/04/2007 ISSUED BY R.T.A., VADAKARA.

EXT.P11: COPY OF THE APPEAL MEMO IN M.V.A.R.P.NO.282/2007.

EXT.P12: COPY OF THE JUDGMENT IN M.V.A.R.P.NO.400/2006 OF THE S.T.A.T., ERNAKULAM.

EXT.P12: COPY OF JUDGMENT OF STATE TRANSPORT APPELLATE TRIBUNAL, ERNAKULAM IN MVAA.NO.282/2007(I.A.NO.12198/2007)

EXT.P13: COPY OF JUDGMENT IN O.P.NO.7211/1999 OF THIS HONOURABLE COURT.

EXT.P14: COPY OF THE TEMPORARY PERMIT APPLICATION DTD. 19/10/2007 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

EXT.P15: COPY OF THE COVERING LETTER ANNEXED WITH EXT.P14 BY THE PETITIONER TO THE 4TH RESPONDENT.

EXT.P16: COPY OF THE PROCEEDINGS DTD. 9/10/2007 OF THE S.T.A., THIRUVANANTHAPURAM.

/TRUE COPY/

KSS

ANTONY DOMINIC, J.

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W.P.(C) NO.27042 OF 2007 T
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Dated this the 28th day of November, 2007

J U D G M E N T

Ext.P2 is a permit that was granted to the petitioner for the sector Parassinikadavu-Ernakulam and valid till 14/7/06. It is seen that the Kannur, RTA had rejected concurrence and that decision of the RTA was called in question before the STAT in MVARP No.400/06, which was disposed of by Ext.P5. In Ext.P5, the STAT has proceeded on the footing that Ext.P2 permit was valid upto 31/8/05 and on that basis concluded that the petitioner was not eligible for the saving clause provided in Ext.P6 notification dated 9/5/06. This obviously is erroneous in as much as Ext.P2 is valid till 14/7/2006. If so, the petitioner was eligible for the protection provided for in Ext.P6 notification. For that reason, Ext.P5 order and the decision of the RTA deserves to be set aside and I do so.

2. The next question is regarding the rejection of renewal, which was a subject matter of MVARP 282/07. That decision of the RTA, Vadakara in this case was also confirmed by

the STAT in Ext.P12 judgment, following the definition in Rule 2 (oa) of K.M.V Rules.

3. Learned senior counsel invites my attention to Ext.P16 proceedings of the State Transport Authority meeting held on 9/10/2007, wherein STA has decided to move the Government for amending the said rule to save the existing LSOS services. It was also held that the RTAs will permit the existing operators to continue their LSOS service on the strength of regular permit or temporary permit for a period of four months on expiry of regular permits. Petitioner claims that they are entitled to the benefit of Ext.P16 as well. Since RTA and STAT has rested its conclusion entirely on Rule 2(oa)of K.M.V Rules, Ext.P12 also requires to be re-examined in the light of Ext.P16. Therefore, to enable the RTA to do so, I quash to reconsider the decision of RTA and Ext.P12 of the STAT as well.

4. As a necessary consequence of setting aside Exts P5 and P12, the matter now has to go back to the RTA Kannur and Vatakara. The concerned RTAs shall reconsider the matter in the light of the observations herein above contained and take fresh

decision in the matter.

5. Petitioner submits that Ext.P14, temporary permit application filed by the petitioner is pending. If such an application is pending, RTA shall consider this and dispose of the same as expeditiously as possible, at any rate within four weeks of receipt of a copy of this judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

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